IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

LA.App.No. 110 of 2001

LAR.57/1994 of PRINCIPAL SUB COURT,ERNAKULAM
.....

APPELLANT/ CLAIMANT:

KUTTAPPAN,
S/O. LATE PAPPU BHARGAVI,
BUNGLAVIL VEEDU,
KILIKOLLOOR CHERRY.

BY ADV. SRI.B.RADHAKRISHNA PILLAI
SMT.S.AMBIKA DEVI
SRI.A.R. VIJAYASUNDARAM

RESPONDENT/ RESPONDENT:

STATE OF KERALA.

BY GOVERNMENT PLEADER

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 110 OF 2001

Dated this the 18th day of October, 2007.

J U D G M E N T

Harun-Ul-Rashid, J.

This is an appeal filed by the claimant against the judgment and decree in L.A.R. No. 57/1994 on the file of the Principal Sub Court, Kollam. An extent of 10.70 Ares of land belonging to the appellant/claimant was acquired for the purpose of National Highway. Section 4(1) notification was published on 08.05.1990.

2. The Land Acquisition Officer awarded Rs. 7,186/- per Are as land value. Being aggrieved by the fixation of amount at the rate of Rs. 7186/- per Are, the claimant produced Exhibits A2 to A6 documents and examined AW1 and AW2 in support of the claim for enhancement of compensation.

3. The claimant contended before the reference court that the acquired land is situated in an important area and it is lying near to M.C. road, Kollam-Kannanalloor road and Kallumthazham-Ayathil public road and that several public and private institutions, educational institutions etc. are situated in

the locality and therefore the acquired land would fetch Rs. 15,000/- per cent, as on the date of notification. At the same time, the Land Acquisition Officer granted only Rs. 7,186/- per Are. In Exhibit A2 Sale Deed dated 14.11.1988, the value per cent fixed is Rs. 7,250/-. The value per cent in Exhibits A3 and A4 Sale Deeds are Rs. 9,400/- and 9,200/- per cent respectively.

4. The court below noticed that the evidence of AW2 has not been challenged in cross examination. The extent of property in Exhibit A2 is 30 cents of land. The court below had considered the value shown in Exhibits A2 to A4 Sale Deeds and observed that a reasonable value can be fixed for the acquired land. Taking into consideration the value shown in Exhibits A3 and A4 documents at the rate more than Rs. 9,000/- per cent, the court below refixed the land value at the rate of Rs. 12,000/- per Are. The appellant-claimant challenged the fixation of land value at the rate of Rs. 12,000/- per Are, which according to him is not a reasonable price for the acquired land.

5. We have also noticed the fact that the date of Section 4(1) notification in this case is 08.05.1990 whereas Exhibits A2 to A4 documents are executed in November 1987.

There is a time gap of 2½ years. The court below did not take into consideration the gap of 2½ years between Exhibits A2 to A4 documents and Section 4(1) notification, and the tendency of increase in price during the time gap. The unchallenged version of the appellant-claimant that his land is more valuable than the properties involved in Exhibits A2 to A4 was also not considered by the court below.

6. After hearing both sides, taking into consideration the importance of the locality, nearness to important public and private institutions, price of lands in Exhibits A2 to A4 and the time gap between the notification and the said sale deeds, we are inclined to hold that Rs. 7,500/- per cent will be reasonable land value for the acquired land. Therefore, we refix the land value at the rate of Rs. 7500/- per cent.

The appeal is partly allowed. The decree and judgment under appeal is modified. The appellant-claimant is entitled to eligible statutory benefits including interest on solatium.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 110 OF 2001

J U D G M E N T

18.10.2007